STATE OF RHODE ISLAND
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

11/8/2018 PUBLIC NOTICE OF PROPOSED AMENDMENT TO RHODE ISLAND MEDICAID STATE PLAN

In accordance Rhode Island General Laws 42-35, notice is hereby given that the Executive Office of Health and Human Services (EOHHS) proposes to make the following amendment to the Rhode Island State Plan under Title XIX of the Social Security Act:

Pre-Eligible Medical and Remedial Expenses

EOHHS is seeking federal authority to update the methodology for determining allowable medical expenses that are eligible to reduce the available income for beneficiary liability determination purposes. The updated methodology, effective October 1, 2018, outlines the conditions for determining an allowable expense, as well as limits, charges not allowed, deduction timelines, and excess carryover processes. This amendment is expected to have no budgetary impact.

This proposed amendment is accessible on the EOHHS website (www.eohhs.ri.gov) or available in hard copy upon request (401-462-6348 or RI Relay, dial 711). Interested persons should submit data, views, or written comments by December 9, 2018 to Melody Lawrence, Executive Office of Health and Human Services, 3 West Rd, Cranston, RI, 02920, or Melody.Lawrence@ohhs.ri.gov.

In accordance with the Rhode Island General Laws 42-35-3, an oral hearing will be granted on the proposed State Plan Amendment if requested by twenty-five (25) persons, an agency, or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within fourteen (14) days of this notice.

The Executive Office of Health and Human Services does not discriminate against individuals based on race, color, national origin, sex, gender identity or expression, sexual orientation, religious belief, political belief, or handicap in acceptance for or provision of services or employment in its programs or activities.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: Rhode Island

REASONABLE LIMITS ON AMOUNTS FOR NECESSARY MEDICAL OR REMEDIAL CARE NOT COVERED UNDER MEDICAID

Allowable Medical Expenses – Unpaid past expenses for medically necessary services may be deducted from available income in certain circumstances. For such expenses to reduce available income for beneficiary liability determination purposes, they must meet all the criteria to be considered allowable and exclude any costs of care already used to meet the beneficiary's spenddown if medically needy eligible. An allowable expense must meet the following conditions:

a. Medically necessary. The expense must be medically necessary. A necessary medical expense is an expense rendered --for any of these situations:

(1) In response to a life-threatening condition or pain;
(2) Treat an injury, illness or infection;
(3) Achieve a level of physical or mental function consistent with prevailing community standards for the diagnosis or condition;
(4) Provide care for a mother and child through the maternity period;
(5) Prevent the onset of a serious disease or illness;
(6) To treat a condition that could result in physical or behavioral health impairment; or
(7) When such services are provided or ordered by a licensed health care professional or provider they are presumed to be medically necessary. In instances when such services are provided by some other person or entity, documentation of medical necessity may be required.

b. Non-Medicaid Service. The expense must not be covered by Medicaid. An expense cannot be deducted if it is a Medicaid-covered service and is incurred in a month in which eligibility may exist, including the month of application and the retroactive eligibility period. Exceptions are granted for Medicaid covered services only if the health costs were incurred for a medically necessary service provided prior to the retroactive eligibility period and are a legally binding debt obligation, attachment or lien. In addition:

(1) An expense incurred in a month for which eligibility is approved is presumed to be a Medicaid covered service unless the applicant provides documentation that it is not.

(2) When an applicant for LTSS is receiving a service or set of services Medicaid pays for in a daily or bundled rate, the items and services included in that rate are not separate allowable expenses whether provided in an institution, such as a NF or hospital, or home and community-based setting, such as a DD group home, assisted living residence, etc.

c. No Thirty Party Payment. An allowable expense must not be eligible for payment by a third party. For these purposes, a third party could be individuals, entities or benefits that are, or may be, liable to pay the expense including, but not limited to: other health care coverage, such as coverage through Medicare, private or group health insurance, long-term care insurance or through the Veterans Administration (VA) health system; automobile insurance; court judgments or settlements; Workers' Compensation.

d. Allowed Expense Period. The expense must be incurred during a month in which the applicant/beneficiary is receiving Medicaid-funded LTSS or the retroactive period unless the exception for legally binding debt or attachments apply. The first day of the month an application for LTSS is filed, or a request for review of an expense is submitted is the start date for determining whether an expense qualifies, regardless of whether retroactive coverage is requested or approved.

(1) An expense incurred during the three (3) month retro-period must be unpaid as of the date the agency received the request, unless it was incurred in a month that Medicaid LTSS coverage was active.
(2) An expense incurred while Medicaid LTSS is active may be paid or unpaid.

2. Limits -- If all of the above conditions apply, the expense may still not be allowed in certain circumstances:

a. Expense in penalty period. An expense cannot be deducted for an LTSS service incurred during a penalty period if due to a disqualifying, uncompensated transfer. However, non-LTSS expenses, such as primary, acute or subacute care services incurred during a period of ineligibility, may be an allowable expense if all other conditions are met.
b. Used for other reductions. The expense must not have been treated as or paid:
(1) To reduce excess resources -- an expense paid by an applicant to meet resource eligibility limits cannot be deducted in the income calculation.
(2) As an income exclusion or deduction -- an expense previously used as a deduction in the income calculation cannot be used under this section.

3. Charges Not Allowed -- The following services are not allowable expense deductions when provided to a Medicaid applicant:

a. Personal Items. Items such as shampoo, toothpaste or dental floss;
b. Elective or Expanded Services. Optional or elective features to services and supports that are not medically necessary, such as a motorized wheel chair, prescription sunglasses, elective treatments or procedures for non-medical purposes;
c. Provider travel. A charge for a provider to travel to an applicant's residence when no medical service is provided.

4. Deduction Timeline -- Allowable expenses are deducted in the LTSS income calculation for the month in which the expense is incurred. Expenses that were incurred in the three (3) months

prior to the month the request for payment of LTSS services is submitted can be deducted beginning in the first month of eligibility.

5. Excess Carryover --The excess amount of an allowable expense can be carried forward and used as a deduction in future months when the amount of the expenses combined exceeds the amount of income remaining after all other deductions.